

c. Maintenance by the person named in Section 13-101 of the lot, parcel and adjoining right of way areas shall include mowing, removal of litter or debris, and removal of noxious weeds or vegetation. In addition, the lot or parcel and adjoining right of way area shall be maintained to the same or higher level of adjacent properties.

16. Chapter 5, Amusements and Entertainments, is hereby amended by adding a new Article III, Special Events, Sections 5-50 through Section 5-62 so that the Article shall read as follows:

Section 5-50 Special Event Defined

Special Event means a single gathering of persons, generally lasting from a few hours to a few days, designed to celebrate, honor, discuss, sell, teach about, encourage, observe, or influence human endeavors, and includes but is not limited to a festival, parade, fair, carnival, street dance, reunion, party, seminar, conference, sidewalk sale, outdoor theatre, concert, display, pet show, pageant, sports event, ceremony, spectacle, celebration, or any similar event.

Sec 5-51 Events Not Covered by this Article

This article shall not apply to events involving the use of municipal facilities for which a license or special use permit is required under this Code for such use, including the Lakeside Pavilion or other park facility, to garage sales, or to land uses authorized under the City's Land Use Regulations, either as a permitted or specific use in a zoning district or as a Temporary Use pursuant to Sections 905-919 of such Regulations. This article does not apply to private events such as family reunions, birthday parties or other celebrations where the event does not require a street closure or special parking.

Sec. 5-52 Permit Required

No person shall engage in or conduct a Special Event unless a permit is issued by the chief of police.

Sec. 5-53 Application

(a) A person seeking a Special Event permit shall file an application with the chief of police on forms provided by such officer, and the application shall be signed by the applicant under oath.

(b) An application for a permit shall be filed with the chief of police at least forty-five (45) and not more than one hundred eighty (180) days before the event is proposed to commence. The chief of police may waive the minimum forty-five (45) day filing period and accept an application filed within a shorter period if, after due consideration of the date, time, place, and nature of the event, the

anticipated number of participants, and the city services required in connection with the event, the chief of police determines that the waiver will not present a hazard to public safety.

(c) The application for a event permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct such event;

(2) The names, addresses and telephone numbers of the headquarters of the organization for which the event is to be conducted, if any, and the authorized and responsible heads of the organization;

(3) The requested date of the event;

(4) If a parade, the route to be traveled, including the starting point and the termination point;

(5) The approximate number of persons who, and animals and vehicles which, will be involved in such event, and the type of animals and description of the vehicles, if any;

(6) The hours when such event will start and terminate;

(7) The location by street, address, or place of any assembly areas for such event;

(8) If a street is involved, a statement as to whether the event will occupy all or only a portion of the width of the streets proposed to be traveled, and whether temporary street closure is necessary or desired.

(9) The time at which units of the event will begin to assemble at any such area;

(10) If a parade, the intervals of space to be maintained between units of such event;

(11) If the event is designed to be held by or on behalf of any person other than the applicant, the applicant for such permit shall file a letter from that person with the chief of police authorizing the applicant to apply for the permit on his behalf;

(12) The type of public assembly, including a description of activities planned during the event;

(13) A description of any recording equipment, sound amplification equipment, banners, signs, or other attention-getting devices to be used in connection with the event;

(14) The approximate number of participants (spectators are by definition not participants);

(15) The approximate number of spectators;

(16) A designation of any public facilities or equipment to be utilized; and

(17) Any additional information that the chief of police finds reasonably necessary to a fair determination as to whether a permit should issue.

Section 5-53 Fees

(a) A nonrefundable fee to cover administrative costs of processing the permit shall be paid to the City by the applicant when the application is filed. The type and amount of the applicable fees are included in the City's Fee Schedule, which is on file in the office of the city secretary and is subject to periodic revision by the city.

(b) If the application is for the use of any city property or if any city services shall be required for the event, the applicant shall pay, prior to the issuance of a permit, the charges for those services in accordance with the City's Fee Schedule for such services.

Section 5-54 Police protection

(a) The chief of police shall determine whether and to what extent additional police protection is reasonably necessary for the event for traffic control and public safety. The chief of police shall base this decision on the size, location, duration, time and date of the event, the expected sale or service of alcoholic beverages, the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks. The speech content of the event shall not be a factor in determining the amount of police protection necessary. If possible without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will police the event. If additional police protection for the public assembly is deemed necessary by the chief of police, he shall so inform the applicant for the permit. The applicant then shall have the duty to secure the police protection deemed necessary by the chief of police at the sole expense of the applicant.

(b) Persons engaging in events conducted for the sole purpose of public issue speech protected under the First Amendment are not required to pay for any police protection provided by the city.

(c) Special Events permittees are allowed to engage and utilize private security services for an event in lieu of hiring city police personnel if approved by the

chief of police.

Section 5-55 Standards for issuance

(a) The chief of police shall issue a permit as provided for herein from a consideration of the application and from such other information as may otherwise be obtained, if he or she finds that:

(1) The conduct of the event will not substantially interrupt the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location;

(2) The conduct of the event will not require the diversion of so great a number of city police officers to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection of the city;

(3) The concentration of persons, animals, and vehicles at public assembly points of the event will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such public assembly areas;

(4) The conduct of the event is not reasonably likely to cause injury to persons or property;

(5) If a parade is involved, the event is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;

(6) Adequate sanitation and other required health facilities are or will be made available in or adjacent to any public assembly areas;

(7) There are sufficient parking places near the site of the event to accommodate the number of vehicles reasonably expected;

(8) The applicant has secured the police protection or private security personnel, if any, which is required under this chapter and provided for posting of surety as required under Section 5-62;

(9) Such event is not for the primary purpose of advertising any product, goods or event that is primarily for private profit, and the event itself is not primarily for profit. The prohibition against advertising any product, goods or event shall not apply to signs identifying organizations or sponsors furnishing or sponsoring exhibits or structures used in the event;

(10) No Special Event permit application for the same time and location is already granted or has been received and will be granted;

(11) No Special Event permit application for the same time but a different

location is already granted or has been received and will be granted, and the police resources required for that prior event are so great that, in combination with the subsequent proposed application, the resulting deployment of police services would have any immediate and adverse effect upon the welfare and safety of persons and property; and

(12) No event is scheduled elsewhere in the city where the police resources required for that event are so great that the deployment of police services for the proposed event would have an immediate and adverse effect upon the welfare and safety of persons and property.

(b) No permit shall be granted that allows for the erection or placement of any structure, whether permanent or temporary, on a city street, sidewalk, or right-of-way unless advance approval for the erection or placement of the structure is obtained as part of the permit application.

Sec. 5-56 Nondiscrimination

The chief of police shall uniformly consider each application upon its merits and shall not discriminate in granting or denying permits under this article based upon political, religious, ethnic, race, disability, sexual orientation or gender related grounds.

Sec. 5-57 Notice of denial

The chief of police shall act promptly upon a timely filed application for a event permit but in no event shall grant or deny a permit less than thirty (30) days prior to the event. If the chief of police disapproves the application, he shall notify the applicant either by personal delivery or certified mail of his action and state the reasons for denial.

Section 5-58 Appeals

(a) Any applicant shall have the right to appeal the denial of an event permit to the city manager and then to the city council. The denied applicant shall promptly make the appeal after receipt of the denial by filing a written notice with the chief of police within 10 days of the date of the denial and a copy of the notice with the city secretary. The city manager shall act upon the appeal within 5 days of the appeal. If the city manager denies the application, then the denial will be automatically appealed to the city council at the next scheduled meeting following the denial unless a special meeting is called for that purpose.

(b) If a proposed event that is the subject of a denial of a permit was scheduled to commence prior to a scheduled meeting of the city council, the council may call a special meeting for the purpose of ruling on the denied applicant's appeal.

(c) In the event that the city council rejects an applicant's appeal or fails to call a special meeting for the purpose of considering the appeal, the applicant may file an immediate request for review with a court of competent jurisdiction.

Section 5-59 Notification of public officials

Immediately upon the issuance of a event permit, the chief of police shall send a copy thereof to the following:

- (1) The city manager;
- (2) The city secretary;
- (3) The director of each city department.

Section 5-60 Contents

Each event permit shall state the following information:

- (1) Purpose and name of the event;
- (2) Persons responsible for conduct of the event and contact information;
- (3) Starting and approximate ending time;
- (4) If a parade is involved, the maximum and minimum speed of parade units, maximum and minimum intervals of space to be maintained between parade units, portions of the streets that may be occupied by the event, and the maximum length of the parade in miles or fractions thereof;
- (5) Any special conditions regarding particular events, number of animals, level of noise allowed, maximum number of persons allowed in any building at one time, insurance requirements, or other conditions peculiar to the event;
- (6) Authorization to use or restrictions on use of particular public party;
- (7) Indemnification and hold harmless of the City by the persons responsible for the event; and
- (8) Such other information as the chief of police shall find necessary to the enforcement of this article.

Section 5-61 Duties of permittee; bond and insurance requirements

- (a) A permittee hereunder shall comply with all permit directions and conditions

and with all applicable laws and ordinances.

(b) The event chairman or other person heading such activity shall carry the event permit upon his person during the conduct of the event.

(c) Prior to the issuance of a permit, the applicant shall be required to file with the chief of police a surety bond in an amount which will cover the estimated costs of barricading, policing and cleaning up the event site and/or parade route. Upon submission of the application, the chief of police shall calculate the estimated costs based on the information contained in the application. No less than thirty (30) days before the event is proposed to commence, the chief of police will provide these costs to the applicant. The applicant shall deposit cash, money order, or cashier's check (no personal checks will be accepted) sufficient to cover these estimated expenses. This deposit shall be made no later than fifteen (15) days prior to the date which the event is proposed to commence. After the event has been completed, the chief of police shall deduct the costs of barricading, policing and cleaning up the event site and/or parade route from the deposited amount. The city shall then return any remaining balance from the deposit to the permit holder within thirty (30) days after the event. In the event that the chief of police initially underestimated barricading, policing and cleanup costs and there remains a balance due after applying the deposited amount toward these expenses, the permit holder shall receive from the city a bill for the difference. The city shall provide such bill to the permit holder within two (2) weeks after the event. The payment for the outstanding balance of the cost of the event shall be due to the city within thirty (30) days after the date of the event. The permit holder shall bear all costs relating to traffic-control devices and any on-duty and overtime police required for the event.

(d) Prior to the date of the event, the permit holder shall submit to the chief of police a certificate of insurance showing commercial general liability coverage, including premises operations, independent contractors, personal injury and contractual liability, at a combined single limit of five hundred thousand dollars (\$500,000.00) per occurrence or such other amount as determined by the chief of police according to identified risks involved with the event. The city shall be named as an additional insured and provided with at least thirty (30) days' advance notice of cancellation or material alteration of the insurance policy.

Section 5-61 Revocation of Permit

The chief of police shall have the authority to revoke a event permit instantly upon violation of the conditions or standards for issuance as set forth in this article or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the event would have an immediate and adverse effect upon the welfare and safety of persons or property.

Except as herein amended the Marble Falls Code of Ordinances shall remain in full force and effect.

SECTION III. REPEALER. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed, but only to the extent of any such conflict.

SECTION IV. PROVIDING FOR SEVERABILITY. If any provision, section, sentence, clauses or phrase of this Ordinance or application of same to any persons or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portion of this Ordinance or its application to other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Marble Falls in adopting, and the Mayor in approving this Ordinance, that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provisions or regulation.

SECTION V. EFFECTIVE DATE. This ordinance shall be in full force and effect from its date of approval.

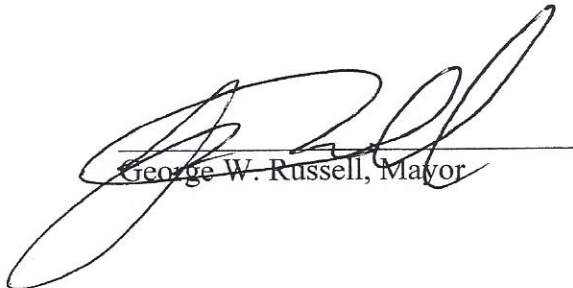
SECTION VI. PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PUBLIC HEARING AND 1ST READING OF THIS ORDINANCE: August 7, 2012.

SECOND READING AND APPROVAL: November 20, 2012.



CITY OF MARBLE FALLS:


George W. Russell, Mayor

ATTEST:

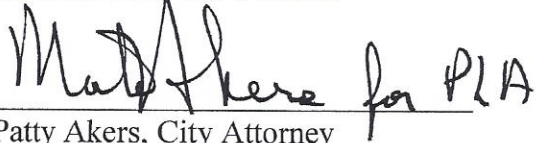


Ordinance No. 2012-O-08B

Christina Laine, City Secretary

(Seal)

APPROVED TO FORM:


Patty Akers, City Attorney